

The Honorable Karen A. Overstreet
Chapter 7
Hearing Location: Courtroom 7206, Seattle
Hearing Date: November 16, 2007
Hearing Time: 9:30 a.m.
Response Date: November 9, 2007

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

In Re:

JOHN BERNARD O'NEILL
CLAUDIA KELLY O'NEILL

Debtors.

) Chapter 7
) No. 05-22212

) TRUSTEE'S NOTICE OF HEARING
) AND MOTIONS FOR AUTHORIZATION
) OF SETTLEMENT OF CLAIMS,
) APPROVAL AND PAYMENT
) OF SPECIAL COUNSEL FEES,
) AND ABANDONMENT OF
) OTHER LITIGATION CLAIMS

TO: Debtors, Creditors and Other Interested Parties

I. Notice

PLEASE TAKE NOTICE that the motions stated below will be heard by the court as follows:

JUDGE: Karen A. Overstreet
PLACE: Courtroom 7206
U.S. Courthouse
700 Stewart Street
Seattle, WA 98101

TIME: 9:30 a.m.
DATE: November 16, 2007

II. Objections/Responses

Any responses or objections to the motions must be in writing, with the original filed with the Clerk of the Bankruptcy Court, 700 Stewart Avenue, Seattle, Washington 98101, prior to the response date which is November 9, 2007. Failure to comply with this local rule may be deemed by the court as opposition without merit. If you are an attorney, your response or objection must be filed electronically on the Court's CM/ECF system. A copy should be delivered to the chambers of the judge hearing this matter, a copy served on the United States Trustee, Room 5203, 700 Stewart Avenue, Seattle, Washington 98101, and a copy served on the Trustee at the address shown in the lower right hand corner of this Notice or via ECF. If responsive pleadings are not filed as stated

NOTICE OF HEARING AND MOTIONS - 1

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1 above, the hearing may be stricken and an order granting the relief requested in the motions may be
2 presented ex-parte.

3 III. Motions

4 PLEASE TAKE NOTICE that Chapter 7 Trustee, Ronald G. Brown, moves this court as
5 follows:

6 1. For authority to approve settlement of litigation claims in the sum of \$400,000.

7 The bankruptcy estate asserts claims arising from litigation against Farmers Insurance
8 Company on damages from a water damage event at the debtors' former residence. Special counsel
9 representing the bankruptcy estate Guy W. Beckett, of Beckett Law Offices, who had previously
10 represented the debtor, assisted in obtaining the settlement through litigation and mediation. Under
11 the terms of settlement, the estate will receive the sum of \$400,000.

12 Special counsel has filed a declaration with the court evaluating the circumstances of the
13 litigation.

14 Under the criteria in In re A&C Properties, 784 F.2d 1377 (9th Cir., 1986), the court considers
15 a number of factors in determining whether to approve a settlement proposed by a bankruptcy estate,
16 including (1) the probability of success in legal proceedings; (2) the difficulty of collection; (3) the
17 complexity of the legal proceedings and the expense involved; and (4) the interest of creditors. Based
18 upon the advice of special counsel, the trustee believes that the proposed settlement in this case meets
19 the criteria and is a reasonable settlement of all claims.

20 The trustee believes that the outcome of any legal proceeding is uncertain. In this case, the
21 litigation issues have been vigorously contested. There are numerous liability issues which may
22 affect recovery. Further pursuit of the pending court proceedings would require the estate to incur
23 attorney fees, expert fees, and litigation costs that might further diminish recovery. For the foregoing
24 reasons, the trustee believes that, based upon the evidentiary record and the evaluation of special
25 counsel, the proposed settlement is reasonable.

26 2. For authority to pay special counsel fees, plus reimbursement of costs incurred.

27 Special counsel, Guy Beckett, of the Beckett Law Firm, has filed an application to the court
28 requesting fees of \$140,000, plus reimbursement of costs in the sum of \$63,254.38, for a total sum
of \$203,254.38. The application is available for review through the Clerk of the Court. The proposed
settlement was obtained by counsel through litigation and mediation prior to trial. The trustee
believes that, given the degree of complexity of the case and the nature of counsel's services, that the
request for payment of fees and costs is reasonable.

3. For abandonment of other litigation claims

Litigation claims are pending against Professional Cleaning & Restoration Services, LLC,
d/b/a Servpro ("Servpro") and AACE Contracting & Insurance Repair ("AACE") for damages related
to the water damage claim and against Oles Morrison Rinker & Baker, LLP, ("Oles Morrison") and
Jany Jacob and Jany K. Jacob, PLLC, ("Jacob") on a legal malpractice claim. The trustee anticipates
that the settlement funds from the Farmers Insurance litigation will be sufficient to pay
administrative costs and creditor claims in full. Pursuant to 11 U.S. C. §554, the trustee proposes to
abandoning the bankruptcy estate's interest in the claims against Servpro, AACE, Oles Morrison,
and Jacob on the basis that the claims for the bankruptcy estate are burdensome or of inconsequential
value.

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